

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JAMES WILSON

V.

CMC HOME LENDING and WELLS  
FARGO BANK, N.A.

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CASE NO. 4:15-CV-304  
(Judge Mazzant/Judge Nowak)

## **MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On October 15, 2015, the report of the Magistrate Judge was entered (Dkt. #17) containing proposed findings of fact and recommendations that Defendant Wells Fargo Bank, N.A.'s Motion to Dismiss (Dkt. #10) be granted. Moreover, on that same date, the Magistrate Judge also entered a Notice of Impending Dismissal (Dkt. #16), notifying Plaintiff that this action shall be dismissed without prejudice as to the remaining Defendant CMC Home Lending, in accordance with Federal Rule of Civil Procedure 4(m). The Court further notified Plaintiff that failure to respond would result in dismissal of the case for failure to prosecute.

Having received the report of the Magistrate Judge regarding Defendant Wells Fargo Bank, N.A.'s Motion to Dismiss (Dkt. #10), and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court. The Court finds that Defendant Wells Fargo Bank, N.A. should be dismissed. Further, having received no response to the Court's notice of impending dismissal (Dkt. #16), the Court further finds

Defendant CMC Home Lending should also be dismissed without prejudice for failure to prosecute.

It is, therefore, **ORDERED** that Defendant's Motion to Dismiss (Dkt. #10) is **GRANTED** and Plaintiff's claims against Defendant Wells Fargo Bank, N.A. are **DISMISSED** with prejudice.

If is further **ORDERED** that Plaintiff's claims against Defendant CMC Home Lending are **DISMISSED** without prejudice.

All relief not previously granted is **DENIED**. The Clerk is directed to **CLOSE** this civil action.

**IT IS SO ORDERED.**

**SIGNED this 15th day of December, 2015.**

  
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AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE